

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2001-006342

01/31/2007

HON. GARY E. DONAHOE

CLERK OF THE COURT

D. Monroe

Deputy

IN RE THE MARRIAGE OF
CYNTHIA LEE THIMMESCH

TERI D MCCALL

AND

PETER ALLAN THIMMESCH

PETER ALLAN THIMMESCH
11337 STONEHOUSE PLACE
POTOMAC FALLS VA 20165

JOHN J TOMA PH D
2345 E THOMAS RD STE 275
PHOENIX AZ 85016
D & C MATERIALS-CSC
MARY ANN LANZILOTTA PH D
4539 N 22ND ST STE 201
PHOENIX AZ 85016

APPOINTMENT OF PRIVATE THERAPIST

The Court has received a letter dated January 26, 2007 from Dr. Toma regarding efforts to date to obtain a therapist for Becca, the availability of Dr. Lanzilotta as a therapist for Becca, and his recommendation.

IT IS ORDERED appointing the following therapist for the minor child, Becca:

Mary Ann Lanzilotta, Ph.D., 4539 North 22nd Street, Suite 201, Phoenix, Arizona 85016; phone: 602-957-2244.

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IT IS FURTHER ORDERED that the therapist shall notify the Court and counsel, or the parties if pro se, immediately upon receipt of this order if he or she will not accept this appointment. Acceptance of the appointment indicates the capability of complying with the terms of this order.

The therapist may make any other recommendations he or she determines the Court should consider to promote the physical, mental, or moral or emotional health of the child.

1. Timely Written Report. The therapist shall prepare a written report not later than 14 days prior to the next scheduled hearing. The report shall be delivered to the Court and counsel, or the parties if pro se, unless the therapist asserts extraordinary circumstances, such as imminent life threat or the potential for serious harm to a person related to the case. In the event, the Court shall make a ruling regarding dissemination. The acceptance of this appointment by the therapist indicates a capability of completing a written report in a timely manner and the ability to appear and testify in court upon reasonable notice.
2. Authority of Therapist/Cooperation by Parties/Waiver of Confidentiality. The therapist shall have the following authority with regard to the minor child and family members:

The therapist shall serve as an expert for the court in order to provide data and opinions relevant to the care of, custody of and access to the minor child in this case pursuant to applicable Arizona statutes and case law. The therapist shall have: (a) Reasonable access to the child and family members with reasonable notice; and (b) Reasonable notice of any and all judicial proceedings including requests for any examination affecting the children and shall be provided copies of all minute entries, orders and pleadings filed in this case.

The therapist shall also have access to:

1. all therapists of the child and parties;
2. all school and medical records of the child and parties;
3. any and all psychological testing or evaluations performed on the children or the parties;
4. any and all teachers/child care providers for the child.

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At the request of the therapist, each party shall execute any and all releases or consents necessary to authorize the therapist's access to the information described herein. No other clinicians (i.e., therapists, psychologists, social workers, etc.) are to work on this case during the course of the evaluation without the consent or authorization of the therapist, unless otherwise authorized by court order.

There is no confidentiality relating to the parties' communications with/to the therapist or concerning the therapist's activities or recommendations. The therapist may engage in written or verbal communication with any person he or she perceives capable of providing information relevant to the care and welfare of the child.

The therapist may request that the parties and/or child participate in adjunct services, to be provided by third parties, including but not limited to physical or psychological examinations, assessments, psychotherapy, co-parenting work, or alcohol and drug monitoring/testing. The Court shall allocate between the parties the cost of any adjunct service.

The therapist shall be promptly provided all records, reports, and documents requested and shall receive the cooperation of all parties and counsel involved. This Order shall act as a release by the parties of all information requested by the therapist and shall further obligate the parties for any costs associated with the production of those records to the therapist. Any such costs shall be paid promptly.

5. No Ex-Parte Contact. The parties and counsel shall not have substantive ex-parte discussions with the therapist, but shall conduct all communication through conference calls or conferences, unless agreed upon otherwise by all parties and counsel. Copies of any documentation provided by counsel or the parties to the therapist shall concurrently be sent by the providing person to the other side. Copies shall be sent to counsel if the other side is represented by counsel.

The therapist may have ex-parte contact with the Court regarding scheduling matters.

6. Fees. The therapist's fee and costs shall be paid as agreed to by the parties subject to other and further orders of the Court. The Court has been advised that fees and other arrangements have been discussed between Mother and Dr. Lanzilotta. Fees shall be payable at the time of the first appointment and costs shall be paid as directed by the therapist. In the event any person (including a child) fails to appear at the time of an appointment, the person responsible for the missed appointment shall be obligated to pay any cost associated with the missed appointment.

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7. Evidence. The written report of the therapist may be received in evidence without the necessity of any foundation and without any objection to hearsay statements contained therein or any other objection.
8. Testimony. Each party shall have the right to call the therapist as a witness. If only one party believes that the therapist's live testimony is necessary in addition to the written report, that party shall be responsible for 100% of the costs incurred in connection with the therapist testifying at the court hearing.
9. Immunity. The therapist acts as a quasi-judicial officer in his or her capacity pursuant to this Order, and as such, the therapist has limited immunity consistent with the Arizona case law applicable to quasi-judicial officers of the Court as to all actions undertaken pursuant to the Court appointment and this Order.

Any alleged impropriety or unethical conduct by the therapist **shall** be brought to the attention of the Court in writing.

IT IS FURTHER ORDERED sealing the letter dated January 26, 2007 filed on January 31, 2007, not to be opened without further order of the Court.

/ s / HON. GARY E. DONAHOE

JUDICIAL OFFICER OF THE SUPERIOR COURT

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/ssc/sschome.html>.